

PREFACE TO SENATE BILL 21

The Commonwealth Merit Scholarship, established in Senate Bill 21, enacted by the 1998 General Assembly, will be referred to as the KEES (Kentucky Educational Excellence Scholarship) program. The name change became necessary when it was brought to the attention of the Commonwealth of Kentucky that the statutory name may inadvertently infringe on a nationally recognized scholarship trademark.

GENERAL ASSEMBLY COMMONWEALTH OF KENTUCKY

1998 REGULAR SESSION

SENATE BILL NO. 21

AS ENACTED

WEDNESDAY, APRIL 1, 1998

AN ACT relating to education and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) The General Assembly of the Commonwealth of Kentucky hereby declares that the best interest of the Commonwealth mandates that financial assistance be provided to ensure access of Kentucky citizens to public and private postsecondary education at the postsecondary educational institutions of the Commonwealth.
- (2) It is the intent and purpose of the General Assembly that the enactment of Sections 1 to 6 of this Act shall be construed as a long term financial commitment to postsecondary education and that the funding provided by subsections (3) and (4) of Section 7 of this Act shall not be diverted from the purposes described in Sections 1 to 6, and 8 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act:

- (1) “Academic term” means a semester or other time period specified in an administrative regulation promulgated by the council;
- (2) “Academic year” means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) “ACT score” means the composite score achieved on the American College Test or an equivalent score, as determined by the council, on the Scholastic Assessment Test;
- (4) “Authority” means the Kentucky Higher Education Assistance Authority;
- (5) “Award period” means two (2) consecutive academic terms;
- (6) “Commonwealth merit scholarship” means a scholarship provided to an eligible student to attend a participating institution;

- (7) “Commonwealth merit scholarship curriculum” means five (5) courses of study in an academic year as determined by administrative regulation promulgated by the council;
- (8) “Commonwealth merit scholarship trust fund” means the Wallace G Wilkinson Commonwealth merit scholarship trust fund;
- (9) “Council” means the Council on Postsecondary Education created under KRS 164.011;
- (10) “Eligible student” means any person who is a Kentucky resident enrolling in a Kentucky high school, after July 1, 1998, who, while meeting the Commonwealth merit scholarship curriculum requirements, has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, and who is not a convicted felon;
- (11) “Full time student” means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- (12) “Grade point average” means the grade point average earned by an eligible student based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;
- (13) “High school” means any Kentucky public high school, and any private, parochial, or church school that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;
- (14) “Maximum award amount” means the sum of the proportionate base scholarship amount earned by an eligible student in each academic year of high school study and any supplemental award earned by an eligible student. The amount so determined shall be the maximum available to the eligible student for any award period;
- (15) “Participating institution” means an “institution” as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs; and
 - (a) 1. Is publicly operated; or
 - 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; and
 - (b) Continues to commit financial resources to student financial assistance programs and provides annual documentation to the authority of compliance;

- (16) “Part-time student” means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and
- (17) “Supplemental award” means commitment of additional scholarship funds under subsection (3) of Section 4 of this Act to an eligible student based on the eligible student’s ACT score.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) There is established in the State Treasury a permanent and perpetual fund to be known as the “Wallace G. Wilkinson Commonwealth Merit Scholarship Trust Fund” to which shall be credited net lottery revenues transferred in accordance with Section 7 of this Act; gifts; bequests; endowments; grants from the United States government, its agencies, and instrumentalities; and funds received from any other sources, public or private.
- (2) The moneys in the fund are hereby continuously appropriated only for the purposes set forth in Sections 1 to 6, and 8 of this Act.
- (3) The council shall administer the Commonwealth merit scholarship trust fund. Upon the approval of the council, the authority may expend funds from the Commonwealth merit scholarship trust fund that are necessary and reasonable to meet the expenses of administering the Commonwealth merit scholarship trust fund.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) Commonwealth merit scholarship awards shall be based upon an established base scholarship amount and an eligible student’s grade point average. The base scholarship amount for students attaining a grade point average between 2.5 and 4.0 for the 1998-1999 academic year shall be as follows:

<u>GPA</u>	<u>Amount</u>	<u>GPA</u>	<u>Amount</u>
<u>2.50</u>	<u>\$125.00</u>	<u>3.30</u>	<u>\$325.00</u>
<u>2.60</u>	<u>\$150.00</u>	<u>3.40</u>	<u>\$350.00</u>
<u>2.70</u>	<u>\$175.00</u>	<u>3.50</u>	<u>\$375.00</u>

<u>GPA</u>	<u>Amount</u>	<u>GPA</u>	<u>Amount</u>
<u>2.75</u>	<u>\$187.50</u>	<u>3.60</u>	<u>\$400.00</u>
<u>2.80</u>	<u>\$200.00</u>	<u>3.70</u>	<u>\$425.00</u>
<u>2.90</u>	<u>\$225.00</u>	<u>3.75</u>	<u>\$437.50</u>
<u>3.00</u>	<u>\$250.00</u>	<u>3.80</u>	<u>\$450.00</u>
<u>3.10</u>	<u>\$275.00</u>	<u>3.90</u>	<u>\$475.00</u>
<u>3.20</u>	<u>\$300.00</u>	<u>4.00</u>	<u>\$500.00</u>
<u>3.25</u>	<u>\$312.50</u>		

The council shall review the base amount of the Commonwealth merit scholarship beginning with the 1999-2000 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (2) The authority shall commit to provide to each eligible student the base amount of the Commonwealth merit scholarship for each academic year of high school study in the Commonwealth merit scholarship curriculum that the student has attained at least a 2.5 grade point average. The award shall be based upon the eligible student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible student, regardless of any subsequent increases made to the base amount of the Commonwealth merit scholarship through the promulgation of an administrative regulation by the council.
- (3) (a) The authority shall commit to provide to each eligible student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test a supplemental award for the award period beginning in the fall of 1999, based on the eligible student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

<u>ACT Score</u>	<u>Annual Bonus</u>	<u>ACT Score</u>	<u>Annual Bonus</u>
<u>15</u>	<u>\$21</u>	<u>22</u>	<u>\$171</u>
<u>16</u>	<u>\$43</u>	<u>23</u>	<u>\$193</u>
<u>17</u>	<u>\$64</u>	<u>24</u>	<u>\$214</u>
<u>18</u>	<u>\$86</u>	<u>25</u>	<u>\$236</u>
<u>19</u>	<u>\$107</u>	<u>26</u>	<u>\$257</u>
<u>20</u>	<u>\$129</u>	<u>27</u>	<u>\$279</u>
<u>21</u>	<u>\$150</u>	<u>28 or above</u>	<u>\$300</u>

Subsequent supplemental awards for eligible students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

(b) The authority shall commit to provide to each eligible student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

<u>ACT Score</u>	<u>Amount</u>	<u>ACT Score</u>	<u>Amount</u>
<u>15</u>	<u>\$36</u>	<u>22</u>	<u>\$286</u>
<u>16</u>	<u>\$71</u>	<u>23</u>	<u>\$321</u>
<u>17</u>	<u>\$107</u>	<u>24</u>	<u>\$357</u>
<u>18</u>	<u>\$143</u>	<u>25</u>	<u>\$393</u>
<u>19</u>	<u>\$179</u>	<u>26</u>	<u>\$428</u>
<u>20</u>	<u>\$214</u>	<u>27</u>	<u>\$464</u>

21

\$250

28 or above

\$500

The council shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (c) The council shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who graduate from a nonpublic high school not certified by the Kentucky Board of Education and Kentucky residents who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) Every eligible student who has graduated from high school and who has earned a Commonwealth merit scholarship, or a Commonwealth merit scholarship and a supplemental award, shall be eligible to receive the Commonwealth merit scholarship, or the Commonwealth merit scholarship and the supplemental award, for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsection (6) of this section.
- (2) To receive the Commonwealth merit scholarship or a Commonwealth merit scholarship and supplemental award, an eligible student shall:
- (a) Enroll in and attend a participating institution as a full-time student or a part-time student; and
- (b) Maintain eligibility as provided in subsection (3) of this section.
- (3) Eligibility for a Commonwealth merit scholarship or a Commonwealth merit scholarship and supplemental award shall terminate upon the earlier of:
- (a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or
- (b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Commonwealth merit scholarship or a Commonwealth merit scholarship and supplemental award for a cumulative total of eight (8) academic terms if the student enrolls full-time in a four (4) year program.

- (4) (a) The maximum award amount shall be determined by the council and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible student for an award period shall be disbursed by the authority to the eligible in two (2) equal installments, with one (1) installment being disbursed in each of the two (2) academic terms during the award period.
- (b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible student shall counts as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible student.
- (c) 1. An eligible student who is enrolled full-time in an undergraduate program of study shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study. To retain the maximum award for the second award period, an eligible student shall have a 2.5 grade point average at the end of the first award period. To retain the maximum award amount for subsequent award periods, an eligible student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period.
2. Any eligible student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.
3. Any eligible student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.
- 4 Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each eligible student enrolled as a full-time or part-time student at the participating institution.
5. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.
- (5) The expiration of a student's five year (5) eligibility shall be extended by the authority upon determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:

- (a) A serious and extended illness or injury of the student, certified by an attending physician:
- (b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;
- (c) Natural disasters that would render a student unable to attend classes or;
- (d) Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, for up to three (3) years.
- (6) An eligible student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the council shall be eligible to receive the Commonwealth merit scholarship, or the Commonwealth merit scholarship and the supplemental award for a maximum of ten (10) academic terms. The expiration of an eligible student's five (5) year eligibility shall be extended to six (6) years for eligible students meeting the requirements of this subsection.
- (7) Each eligible student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS.

- (1) Not later than August 1, 1999 and each June 30 thereafter, each Kentucky high school shall submit to the Kentucky Department of Education, which shall transmit to the authority, a compiled list of all eligible students during the academic year. The list shall identify the high school and shall contain each eligible student's name, social security number, address, grade point average for the academic year, expected or actual graduation date, and highest ACT score. The authority shall notify each eligible student of his or her Commonwealth merit scholarship earned each academic year. The authority shall determine the final Commonwealth merit scholarship and supplemental award based upon the actual final grade point average and highest ACT score and shall notify each eligible student of the final determination. The authority shall make available a list of eligible students to participating institutions.
- (2) Not later than January 30, 1999, and each January 30 thereafter, each Kentucky high school shall submit to the Kentucky Department of Education, which shall transmit to the authority, a compiled list of all eligible students expected to graduate during the academic year. The list shall identify the high school and

shall contain each eligible student's name, Social Security number, address, grade point average for the fall academic period of the current academic year, and highest ACT score. The authority shall then calculate each eligible student's projected Commonwealth merit scholarship and supplemental award based on the eligible student's data available to the Authority and shall make available to the participating institutions by April 1 of each academic year a comprehensive list of prospective graduates who are eligible students and their projected scholarship and supplemental award amounts. The authority shall notify each prospective high school graduate who is an eligible student of his or her projected Commonwealth merit scholarship and supplemental award amount.

- (3) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible student or have been listed by the eligible student on the Free Application For Federal Student Aid.
- (4) For each eligible student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:

 - (a) The student's initial eligibility for a Commonwealth merit scholarship or Commonwealth scholarship and supplemental award through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;
 - (b) The student's highest ACT score attained by the date of graduation from high school;
 - (c) The eligible student's full-time or part-time enrollment status at the beginning of each academic term; and
 - (d) The eligible student's cumulative grade point average after the completion of each award period
- (5) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible students enrolled for that academic term. Commonwealth merit scholarships and supplemental awards shall be disbursed by the authority to each eligible student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.
- (6) Except as provided in this subsection, the Commonwealth merit scholarship and the supplemental award shall not be reduced.

 - (a) If the sum of the Commonwealth merit scholarship and the supplemental award plus other student financial assistance from all sources exceeds the eligible student's total cost of education, as defined in 20 U.S.C. sec 10871l, need-based financial assistance awards administered by the authority and the participating institution shall be reduced by the amount that all student financial assistance exceeds the total cost of education.

- (b) Commonwealth merit scholarships and supplemental awards shall not be awarded to any eligible students who are in default on any obligation to the authority under any programs administered by the authority under KRS 164.785 until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.
- (7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Commonwealth merit scholarships and supplemental awards under the provisions of Sections 1 to 6 and 8 of this Act.
- Section 7. KRS 154A.130 is amended to read as follows:
- (1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis, may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising or operational services or for the purchase or lease of lottery equipment or materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.
- (2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to

the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1998 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

- (3) Beginning in fiscal year 1999-2000, and each fiscal year thereafter, three million dollars (\$3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:
 - (a) To the Collaborative Center for Literacy Development, one million two hundred thousand dollars (\$1,200,000) in fiscal year 1999-2000 and each fiscal year thereafter; and
 - (b) To the early reading incentive fund, one million eight hundred thousand dollars (\$1,800,000) in fiscal year 1999-2000 and each fiscal year thereafter.
- (4) After the allocation three million dollars (\$3,000,000) to literacy development, as provided in subsection (3) of this section, net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:
 - (a) To the Wallace G. Wilkinson Commonwealth merit scholarship trust fund established in Section 3 of this Act:
 - 1. Seven million dollars (\$7,000,000) in fiscal year 1999-2000;
 - 2. Fifteen percent (15%) in fiscal year 2000-2001;
 - 3. Twenty five percent (25%) in fiscal year 2001-2002;
 - 4. Thirty-two percent (32%) in fiscal year 2002-2003;
 - 5. Forty percent (40%) in fiscal year 2003-2004;
 - 6. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and
 - (b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:
 - 1. Fourteen million dollars (\$14,000,000) in fiscal year 1998-1999;
 - 2. Fifteen million dollars (\$15,000,000) in fiscal year 1999-2000;
 - 3. Thirty-two percent (32%) in fiscal year 2000-2001 through fiscal year 2002-2003;
 - 4. Forty percent (40%) in fiscal year 2003-2004;
 - 5. Forty-five percent (45%) in fiscal year 2004-2005; and
 - 6. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006 and each fiscal year thereafter.
- (5) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications

existing to do business within the Commonwealth of Kentucky to perform the corporation's postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may, at any time, conduct additional audits, including performance audits of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated to any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance to the expenses being incurred.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 164.7535 and 164.785 to the contrary, if sufficient funds are available, the authority shall do one (1) of the following:

- (1) Promulgate an administrative regulation to increase the maximum amount available under the grant programs to each student, up to the prevailing tuition rate charged by the regional public universities for full-time enrollment in an undergraduate program, but in no event shall a student receive more than the student's cost of education less expected family contribution and other anticipated student financial assistance;
- (2) Promulgate an administrative regulation to increase the average income level for qualification for the grant programs; or
- (3) Promulgate an administrative regulation that increases both the maximum amount available under the grant programs, and increases the average income level for qualification for the grant programs.